

**NEIL ABERCROMBIE**  
GOVERNOR

**BRIAN SCHATZ**  
LT. GOVERNOR



**FREDERICK D. PABLO**  
DIRECTOR OF TAXATION

**RANDOLF BALDEMOR**  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510  
FAX NO: (808) 587-1560

To: The Honorable Marcus R. Oshiro, Chair  
and members of the House Committee on Finance

Date: February 15, 2012

Time: 2:00 p.m.

Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. No. 1705 Relating to Taxation

The Department appreciates the intent of H.B. 1705 and offers the following information and comments for the Committee's consideration.

H.B. 1705 exempts mutual irrigation companies exempt from federal income tax under section 501(c)(12) of the Internal Revenue Code that supply potable water from the Hawaii income and general excise taxes. Section 501(c)(12) exempts mutual ditch or irrigation companies from federal income tax if 85 percent or more of the company's income consists of amounts collected from its members for the sole purpose of meeting losses and expenses.

Currently, section 501(c)(12) of the Internal Revenue Code (Code) is one of the sections that Hawaii has not adopted through its conformity provisions, as set forth in Section 235-2.3, Hawaii Revised Statutes (HRS). This measure addresses only potable public water systems organized under section 501(c)(12) of the Code, not all organizations that may be organized under section 501(c)(12) of the Code.

Thank you for the opportunity to comment on this measure.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Exempt potable water

BILL NUMBER: HB 1705

INTRODUCED BY: Evans

STAFF COMMENTS: Amends HRS section 235-2.3(b) to provide that companies that provide potable water under IRC section 501(c) (12) shall not be subject to state income taxation.

Amends HRS section 237-23 (a) to provide that companies that provide potable water under IRC section 501(c) (12) shall not be subject to the general excise tax.

EFFECTIVE DATE: Tax years beginning after December 31, 2011

STAFF COMMENTS: Under current law, IRC 501(c) (12) organizations, while exempt from federal income taxation, are taxable under the state income tax provisions.

While this measure would exempt from state income and general excise taxation an IRC 501(c)(12) organization that provides potable water, it would provide preferential tax treatment to a very select group of taxpayers. From the standpoint of equity, such preferential treatment should be granted to all IRC 501(c)(12) organizations with a sunset date of one year to allow the legislature to determine the effects and outcomes of the exemption and whether it should be continued or repealed. At the very least, the department of taxation should be tasked with explaining whether or not such organizations should or should not be recognized as being exempt for state tax purposes.

Like paragraph (12), the other two inoperative paragraphs of section 501(c) appear to be cooperative types of organizations and perhaps this is the original thinking behind making these sections inoperative. In any case, it would appear to be prudent to examine the underlying reasons for making these particular paragraphs inoperative as well as the implications making this paragraph (12) operative and then only for companies providing potable water.

Digested 2/13/12

## evans3 - Joel

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**m:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**nt:** Tuesday, February 14, 2012 9:54 AM  
**To:** evans3 - Joel  
**Subject:** FW: HB 1705

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**From:** Rick Strojny [<mailto:rick1drj@gmail.com>]  
**Sent:** Tuesday, February 14, 2012 9:39 AM  
**To:** Rep. Cindy Evans  
**Subject:** HB 1705

Dear Chair Marcus Oshiro,

My name is Rick Strojny. I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc. I support HB1705 (a tax compliance bill).

Sincerely,

Richard J. Strojny  
71-1699 Puu Napoo Dr.  
Kailua Kona, HI 96740

**evans3 - Joel**

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**m:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**ent:** Tuesday, February 14, 2012 10:07 AM  
**To:** evans3 - Joel  
**Subject:** FW: HB 1705

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**From:** Dr. Jana Levin DVM DAVDC [<mailto:drjanalevin@gmail.com>]  
**Sent:** Tuesday, February 14, 2012 9:47 AM  
**To:** Rep. Cindy Evans  
**Subject:** HB 1705

Dear Chair Marcus Oshiro,

My name is Jana Levin-Strojny. I am a resident of Puu Lani Ranch) and a customer/member of Napu'u Water Inc. I support HB1705 (a tax compliance bill).

Thank you,

Dr. Jana Levin-Strojny

**evans3 - Joel**

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**m:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**nt:** Tuesday, February 14, 2012 9:50 AM  
**To:** evans3 - Joel  
**Subject:** FW: Napoo Water

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**From:** Catherine Thoene [<mailto:cattythoene@msn.com>]  
**Sent:** Tuesday, February 14, 2012 8:22 AM  
**To:** Rep. Cindy Evans  
**Subject:** Napoo Water

My name is Catherine Thoene. I am a resident of Puu Lani Ranch and a customer of Napu'u Water Inc.  
I support the HB1705 (a tax compliance bill).  
Sincerely,  
Catherine K. Thoene

**evans3 - Joel**

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**From:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**Sent:** Tuesday, February 14, 2012 9:33 AM  
**To:** evans3 - Joel  
**Subject:** FW:

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**From:** Sharon Nair [<mailto:alohasharon@hawaiiantel.net>]  
**Sent:** Tuesday, February 14, 2012 8:06 AM  
**To:** Rep. Cindy Evans  
**Subject:**

Dear Chair Marcus Oshiro,

My name is Sharon Nair. I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc.

I support HB1705 (a tax compliance bill).

Thank you for your attention to this matter.

Sincerely,  
Sharon Nair

**evans3 - Joel**

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**From:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**Sent:** Tuesday, February 14, 2012 9:32 AM  
**To:** evans3 - Joel  
**Subject:** FW: Support HB1705

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**From:** Scott Nair [<mailto:SNair@kukio.com>]  
**Sent:** Tuesday, February 14, 2012 6:34 AM  
**To:** Rep. Cindy Evans  
**Cc:** Mahana Gomes  
**Subject:** Support HB1705

Dear Chair Marcus Oshiro,

My name is Scott Nair. I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc. I support HB1705 (a tax compliance bill). This is a very important issue to all that live and depend on safe affordable water within our small community. Please help us with your vote.

Sincerely,

Scott W. Nair

**evans3 - Joel**

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**m:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**nt:** Tuesday, February 14, 2012 9:29 AM  
**To:** evans3 - Joel  
**Subject:** FW: Napu'u Water tax compliance bill

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**From:** Nina Qualizza [<mailto:ninaqual@yahoo.com>]  
**Sent:** Tuesday, February 14, 2012 6:04 AM  
**To:** Rep. Cindy Evans  
**Subject:** Napu'u Water tax compliance bill

Dear Chair Marcus Oshiro,

My husband and I are residents of Pu'u Lani Ranch and customers/members of Napu'u Water Inc. We support HB1705 (a tax compliance bill).

Sincerely,  
Thomas & Nina Qualizza



evans3 - Joel

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**From:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**Sent:** Tuesday, February 14, 2012 9:11 AM  
**To:** evans3 - Joel  
**Subject:** FW: HB1705 Support

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**From:** Mary Metcalf [<mailto:meametcalf@yahoo.com>]  
**Sent:** Monday, February 13, 2012 6:56 PM  
**To:** Rep. Cindy Evans  
**Subject:** HB1705 Support

Dear Chairman Marcus Oshiro,

My name is Mary Metcalf, I am a resident of Puu Lani Ranch, and have volunteered thousands of hours over the last 7 years serving on the Board of Directors for our small community water company, Napu'u Water, Inc.

Our water company serves a diverse community of residents in Puu Wa'awa'a, Puu Anahulu and Puu Lani Ranch. It is an area rich in Hawaiian history and heritage, and contains one of the few remaining dryland forest areas in the State. It is due to this diversity in the members we serve with potable water that we formed as a federal nonprofit 501(c)12 organization, since we did not qualify for the other federal nonprofit water company structures that the State of Hawaii recognizes as being exempt from State taxation.

A 501(c)12 federal nonprofit company for water supply has its just and pono place in the State of Hawaii. Water, wai, is one of our most valuable resources, and our small company through many volunteer hours is working diligently to make water more affordable to our community. The State of Hawaii would help us tremendously by passing the tax compliance bill HB1705

Mahalo for your consideration,

Mary Metcalf  
71-1746 Puu Lani Drive  
Kailua Kona, HI 96740

**evans3 - Joel**

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**m:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**Sent:** Tuesday, February 14, 2012 9:09 AM  
**To:** evans3 - Joel  
**Subject:** FW: support of HB1705 (a tax compliance bill)

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**From:** becky [<mailto:becky@harnerwall.com>]  
**Sent:** Monday, February 13, 2012 5:24 PM  
**To:** Rep. Cindy Evans  
**Subject:** support of HB1705 (a tax compliance bill)



Dear Representative Marcus Oshiro,

I support the bill (noted above) introduced by Representative Evans and urge you and your colleagues to support it as well. My name is Rebecca Halford and I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc.

Thank you,

Becky Halford

Harner Wall Systems, LLC  
P.O. Box 3203  
Kailua-Kona, HI 96745

808-329-5267 ext. 222  
808-329-4872 fax



## evans3 - Joel

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**From:** Teriitavae Perez on behalf of Rep. Cindy Evans  
**Sent:** Tuesday, February 14, 2012 9:08 AM  
**To:** evans3 - Joel  
**Subject:** FW: Support For HB1705

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**From:** Deanne Tully [<mailto:deanne@marchtully.com>]  
**Sent:** Monday, February 13, 2012 5:00 PM  
**To:** Rep. Cindy Evans  
**Cc:** 'Scott March'  
**Subject:** Support For HB1705

Dear Representative Evans:

Can you please pass this the following on to Representative Oshiro. Thank you.

Dear Representative Marcus Oshiro:

My name is Deanne Tully and my husband is Scott March; we are residents of the Puuanahulu community here on the Big Island of Hawaii. We are also a customer/member of the nonprofit water company, Napu'u Water Inc. (NWI), which provides safe drinking water to this community. As you may know, this community is rather isolated and we do not have access to County water. NWI has been providing us with safe, clean drinking water on a reliable basis for a number years now. NWI is a simple nonprofit organization whose only purpose is to provide this critical water to the members of our community. Our Board of Directors consists entirely of volunteers who generously give their time to manage NWI for the benefit of all us who live here. Currently, NWI is obligated to pay GET tax just like a for-profit company, which is simply not fair or equitable. I don't begin to understand why that is, the Tax Code is simply too complicated to me. However, Representative Evans has introduced HB1705, a tax compliance bill that will rectify this unfair situation and treat NWI just like every other nonprofit. I wholeheartedly support this bill and urge you and your colleagues to support it as well. It will correct a fundamental unfairness and allow the state to tax us like a nonprofit, which is exactly what we are. We are good people in this community - we work hard, pay our taxes, help our neighbors - and we humbly and respectfully ask you to do the right thing and pass this bill.

Thank you for your consideration.  
Sincerely,

Deanne M. Tully and Scott F. March

**Deanne M. Tully**  
71-1627 Pu'u Lani Drive  
Kailua Kona, HI 96740  
Mobile: 571.334.2329  
Home: 808.325.8691  
[Deanne@MarchTully.com](mailto:Deanne@MarchTully.com)

## Teriitavae Perez

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**From:** Dan Lanterman [dlanterman@msn.com]  
**Sent:** Monday, February 13, 2012 2:34 PM  
**To:** Rep. Cindy Evans  
**Subject:** HB1705

Dear Chair Markus Oshiro,

My name is Dan Lanterman. I am a resident of Puu Lani Ranch in Pu-uahulu, Island of Hawaii and a customer/member of Napu'u Water Inc. I support HB1705 (a tax compliance bill).

Sincerely,

Dan Lanterman

February 13, 2012

Rep. Marcus Oshiro  
House of Representatives  
State of Hawaii

Dear Chair Marcus Oshiro,

My name is Mary Helen Higgins. I am a resident of Puu Lani Ranch, No. Kona, Island of Hawaii, and a customer/member of Napu'u Water Inc. I support HB1705, a tax compliance bill. I know that this issue has been presented to the legislature for several sessions in the past and that compliance with our federal status is the prime consideration in this matter. I would also like to point out a "fairness" issue as well and that is, I know of no one else in Kona who pays the GE tax for water consumption and I know of no one on Oahu who pays the GE tax on water usage. I realize that NaPuu Water Inc. is a private water company and perhaps that is why, at our the time of our formation in 2006, the State of Hawaii chose to ignore our federal status and applied a different set of requirements for our company than those who are fortunate enough to be provided water by a public tax payer supported utility. But I would also like to note that this "private" company struggles financially from month to month due to the cost of pumping and distributing water to this isolated, rural community which includes a Hawaiian community which has resided and ranched in this area for many generations. The cost of our water is a hardship for all of the residents here, many of whom are struggling financially. While eliminating the GE tax on our water will not make the cost of the water any less, it will be a small financial break for each of us while hardly affecting the amount of money that the State of Hawaii collects from our group, collectively. It is my hope that you and your colleagues will see the merit of passing this bill. In advance I thank you for anything you can do to help facilitate the passing of this bill.

Sincerely,  
Mary Helen Higgins  
71-1644 Puu Napoo Drive #12  
Kailua-Kona HI 96740

Phone: 808-325-7209

## Teriitavae Perez

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**From:** Ilene Harrington [ilenepch@yahoo.com]  
**Sent:** Tuesday, February 14, 2012 10:25 AM  
**To:** Rep. Cindy Evans

Dear Chair Marcus Oshiro,

I am Ilene Harrington a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc. I support HB1705 which is the tax compliance bill and would appreciate it if you would approve this bill while you are in session this week.

Sincerely,

Ilene Harrington

## Teriitavae Perez

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**From:** Dale harrington [hawaiiirconditioning@yahoo.com]  
**Sent:** Tuesday, February 14, 2012 10:29 AM  
**To:** Rep. Cindy Evans  
**Subject:** Pass tax compliance bill

Dear Chair Marcus Oshiro,

My name is Dale Harrington and I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc. I support HB1705 which is the tax compliance bill and would appreciate it if you would approve this bill while you are in session this week.

Sincerely,

Dale Harrington

## **Teriitavae Perez**

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**From:** Michael Armstrong [mjpurveyors@gmail.com]  
**Sent:** Tuesday, February 14, 2012 10:59 AM  
**To:** Rep. Cindy Evans  
**Subject:** HB1705

Dear Chair Marcus Oshiro,

My name is Mike Armstrong. I am a resident of Puu Lani Ranch and a customer/member of Napu'u Water Inc. I support HB1705 ( a tax compliance bill ).

Sincerely,  
Mike Armstrong

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Michael Armstrong  
MJ Purveyors  
C- (949)690-3474



**Teriitavae Perez**

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**From:** Jerry Kane [kane@hawaiiantel.net]  
**Sent:** Tuesday, February 14, 2012 11:08 AM  
**To:** Rep. Cindy Evans  
**Subject:** HB1705

My name is Jerry Kane. I am a resident of Kailua Kona (i.e. Puu Lani Ranch) and a customer/member of Napu'u Water Inc.

I support HB1705 (a tax compliance bill).

Sincerely,

Jerry L. Kane

## **Tommie Suganuma**

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**From:** Mike G. Hamilton [1spidermike@gmail.com]  
**Sent:** Tuesday, February 14, 2012 1:51 PM  
**To:** Rep. Cindy Evans  
**Subject:** HB 1705 Support

**Dear Chair Marcus Oshiro,**

**My name is Sheri Hamilton. I am a resident of Puu Lani Ranch and customer of Napuu Water, Inc. I support HB 1705 (a tax compliance Bill).**

**Sincerely,  
Sheri Hamilton**

**Tommie Suganuma**

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**From:** Mike G. Hamilton [1spidermike@gmail.com]  
**Sent:** Tuesday, February 14, 2012 1:50 PM  
**To:** Rep. Cindy Evans  
**Subject:** HB 1705 Support

**Dear Chair Marcus Oshiro:**

**My name is Michael Hamilton. I am a resident of Puu Lani Ranch and customer of Napuu Water Inc. I support HB 1705 ( a tax compliance Bill).**

**Sincerely,  
Michael H.G. Hamilton**

## Teriitavae Perez

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**From:** Sally Rice [pililaau@hawaiiantel.net]  
**Sent:** Monday, February 13, 2012 4:20 PM  
**To:** Rep. Cindy Evans  
**Subject:** FW: Testimony to Representative Marcus Oshiro re: Tax Bill HB1705 for HI State income tax and GE tax exemption for Napu'u Water Inc.

Dear Chair Marcus Oshiro,

Re: Tax Bill HB1705 for HI State Income Tax and GE Tax Exemption for Napu'u Water Inc.

My name is Sally Rice and I have been a resident of Pu'u Anahulu for 38 years and am the president of the Board of Directors of Napu'u Water Inc. (NWI). I strongly support HB1705 (a tax compliance bill).

Our non-profit community water system, NWI, has provided potable water to the entire residential community of Pu'u Anahulu and Pu'u Wa'awa'a since NWI purchased the water system from F. Newell Bohnett in 2006. There is no other potable water source available within the community for the residents of this area. The cost of our water for the residents is extremely high because the water is pumped from the source at 2500 feet below ground level. This cost is a serious financial burden for many of our residents, many of whom have lived here for generations.

NWI also supplies water to the cattle that graze on the pastures leased from the Department of Land and Natural Resources (DLNR). These cattle are a management tool to mitigate the severe fire hazard from thousands of acres of fountain grass surrounding our residential communities and while DLNR and its partners slowly restore the invaluable dryland forest at Pu'u Wa'awa'a'.

I respectfully request favorable consideration of HB1705 to alleviate some of this cost to our members.

Sincerely yours,

Sally H. Rice

## Teriitavae Perez

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**From:** Shirleyann Keakealani [skknapiu@gmail.com]  
**Sent:** Monday, February 13, 2012 2:42 PM  
**To:** Rep. Cindy Evans  
**Subject:** Testimony on behalf of NWI for HB1705

Aloha Chair Markus Oshiro,

My name is ShirleyAnn Keakealani. I reside in Puu Anahulu Homesteads. I am a customer/member of Napu'u Water Inc. I am a 5th generation lineal descendant of Puu Anahulu and have been personally involved and diligently working with Representative Evans on Bill HB1705. I am in full support of this Bill and hope to see it passed.

Mahalo A Nui Loa,  
ShirleyAnn Keakealani

## **Teriitavae Perez**

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**From:** Shirleyann Keakealani [skknapuu@gmail.com]  
**Sent:** Monday, February 13, 2012 2:47 PM  
**To:** Rep. Cindy Evans  
**Subject:** Testimony on behalf of NWI for HB1705

Aloha Chair Markus Oshiro,

My name is Leina'ala Lightner. I am a customer/member of Napu'u Water Inc. I am also a 5th generation lineal descendant of Pu'u Anahulu. I would like to express my full support of HB1705. I thank you and all those who have taken the time to review and consider this Bill.

Sincerely,  
Leina'ala Lightner  
Ph: 808-325-5428